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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,707	01/24/2002	Teruhiko Kamigata	1614.1210	7916
21171	7590	02/24/2009		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER DONAGHUE, LARRY D	
			ART UNIT 2454	PAPER NUMBER
			MAIL DATE 02/24/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/053,707

**Applicant(s)**

KAMIGATA ET AL.

**Examiner**

Larry D. Donaghue

**Art Unit**

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-16 are presented for examination.
2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the newly add limitation, "is arranged in an allowable order", lacks antecedent basis in the specification.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant admission of prior art, (AAPA) pages 1-11 and figures 1-9 in view of Official Notice.
5. AAPA taught the invention substantially as claimed including identifying a classification of a functional unit which can execute a basic instruction ; determining whether said basic instruction can be assigned to a logical instruction slot through checking a relationship between said classification of said functional unit and said logical instruction slot (page 10. lines 6-23) ; and assigning, to an instruction slot, said basic instruction determined to be assignable to said logical instruction slot (page 8, lines 30) and determining is assignable to a logical slot would included that the order be allowable .

6. AAPA does not expressly teach a pointer, official notice is taken that a pointer is a conventional means for designating placement of data in a sequentially addressable memory location.
7. As to claim 2, AAPA taught that identifying is divided into identifying an instruction category of a basic instruction, and identifying a classification of a functional unit which can execute said instruction category (page 7, lines 6-36).
8. As to claim 3, AAPA taught that further comprising prior to said assigning, checking a relationship between said basic instruction that can be assigned to said logical instruction slot and other basic instructions to be assigned to other logical instruction slots (Page 8, lines 31-37).
9. As to claim 4, AAPA taught that prior to said assigning, for checking a relationship between said basic instruction that can be assigned to said logical instruction slot and other basic instructions to be assigned to other logical instruction slots (Page 8, lines 31-37).
10. As to claim 5, AAPA taught that identifying said logical instruction slot having a lowest numeral determined to be assignable (see figure 3 note time 2 and 3, clearly showing the basic instruction are placed in the slot having the lowest numeral).
11. As to claim 6, 13 and 14-15 ,AAPA taught the additional features of assigning includes identifying said logical instruction slot having a lowest numeral determined to be assignable (see figure 3, note time 2 and 3, clearly showing the basic instruction are placed in the slot having the lowest numeral).

12. As to claim 7, AAPA taught that identifying, determining, checking and assigning are repeated for all instruction slots (page 9, lines 1-12).

13. As to claim 8, AAPA taught that identifying, determining, checking and assigning are repeated for all instruction slots (page 9, lines 1-12).

Applicant's arguments filed 11/18/2008 have been fully considered but they are not persuasive. Applicant argues that AAPA does not suggest whether the said basic instruction is arranged in an allowable order.

AAPA discloses an instruction verification step in which it is determined whether the instruction slot (i.e. order) at which the basic instruction is assigned is one of the instruction slots at which the basic instruction is executable (i.e. allowable).

14. Claims 9-14 and 16 are rejected for the same rational as claims 1-8, above.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry D. Donaghue whose telephone number is 571-272-3962. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Larry D Donaghue  
Primary Examiner  
Art Unit 2454

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